

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THOMAS BRYANT,

ORDER

Plaintiff,

12-cv-593-bbc

STATE OF WISCONSIN DEPARTMENT
OF HEALTH SERVICES,

Involuntary Plaintiff,

v.

STRYKER CORPORATION and
STRYKER SALES CORPORATION,

Defendants,

GROUP HEALTH COOPERATIVE OF EAU CLAIRE,

Subrogated Defendant.

Defendants Stryker Corporation and Stryker Sales Corporation removed this case from the Circuit Court for Dane County, Wisconsin, relying on 28 U.S.C. § 1332 as a basis for jurisdiction. In an order dated November 16, 2012, I noted a potential jurisdictional problem. Section 1332 requires diverse citizenship between plaintiffs and defendants, but I had concluded in a previous case that involuntary plaintiff State of Wisconsin Department of Health Services was an arm of the state, so it did not have state citizenship under § 1332. Esberner v. Darnell, 2010 WL 1981049 (W.D. Wis. 2010). Accordingly, I directed the

Stryker defendants to show cause why this case should not be remanded to state court.

In response, the Stryker defendants submitted a document in which they state that they “do not oppose remand” of this case to state court. Dkt. #19. I construe that response as a concession that subject matter jurisdiction is not present and I will remand the case to the Circuit Court for Dane County.

ORDER

IT IS ORDERED that this case is REMANDED to the Circuit Court for Dane County, Wisconsin for lack of subject matter jurisdiction.

Entered this 27th day of November, 2012.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge